

REMARKS AND ARGUMENTS

There are no amendments to the specification or drawings.

Claims 1-34 have been cancelled.

New Claims 35-62 have been added and are now pending in this application.

A. Comments regarding Examiner's renumbering of the Claims.

Applicants are very confounded regarding the Examiner's comments regarding the renumbering of the claims. This application was originally filed with Claims 1-28. There have not been any preliminary amendments to this application of any kind.

Attached as Exhibit "A" is a copy of pages 25-40 from counsel's file of the application as filed. These pages show Claims 1-28 consecutively numbered as required by the rules.

The original filing fee was calculated based on 28 claims with 11 independent claims. See Fee Transmittal for FY2002 form submitted with the application. The filing fee was accepted without notice of any deficiency from the PTO.

Applicants now notes upon a present review that the filing receipt does indicate 33 claims with 13 independent claims. Counsel has no idea where the additional claims came from.

Applicants have also reviewed the Published Patent Application 20020103021 which corresponds to the instant application. Applicants note that there are 34 claims in the published application. Six of these claims have duplicate numbers. There are two claims 12, two claims 13, two claims 14, two claims 15, two claims 16 and two claims 18.

Rather than trying to determine which claims have been renumbered, which claims are duplicates and anything else not clear, Applicants have cancelled all of the Claims 1-34 that the Examiner apparently has in the file of this application.

In place of those claims, Applicants are resubmitting original Claims 1-28, but these claims have been now numbered as Claims 35-62. Applicants represent that these new claims are identical to the Claims 1-28 originally submitted by Applicants (see Exhibit "A").

Applicants request that the Examiner now consider these resubmitted claims in light of the Examiner's rejections in the first Office Action dated April 22, 2004 and in light of Applicants' comments below.

B. Objection to Claims 21-25 based on Rule 75 (37 C.F.R. 1.75)

Because the Examiner has indicated a renumbering of the claims, counsel for Applicants is unable to respond to this objection since counsel cannot determine which claims of Claims 1-28 originally filed by Applicants now correspond to the claims that the Examiner has renumbered as Claims 21-25.

Once the numbering of the claims has been resolved, Applicants will respond to this objection.

C. Rejection of Claims 1-6, 15-18, 21 and 24 under the judicially-created doctrine of obviousness-type double patenting

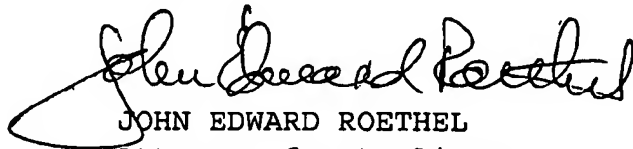
Claims 1-6, 15-18, 21 and 24 stand rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-10 of U.S. Patent No. 6,343,989.

Submitted with this response is a Terminal Disclaimer for the purpose of obviating the rejection of these claims under the judicially-created doctrine of "obviousness-type" double patenting. Applicants submit that the Terminal Disclaimer makes the rejection of Claims 1-6, 15-18, 21 and 24 based on "obviousness-type" double patenting moot.

D. Conclusion.

Applicants submit that all of the claims pending in this application, Claims 35-62, are now allowable and the Examiner is requested to reconsider the objections to and rejections of Claims 1-28 and to find that these claims are now allowable. If the Examiner has further questions regarding this application, the Examiner is requested to call undersigned counsel.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John Edward Roethel", is written over the typed name.

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EXHIBIT "A"

WHAT IS CLAIMED IS:

Claim 1. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

- a) displaying a starting five card hand to the player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;
- f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and
- g) returning a portion of the monetary value of the player error to the player.

Claim 2. The method of Claim 1 in which both the highest expected value and the player's expected value are calculated

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by the using the formula:

$$TEV_i = \sum_{n=1}^N P_{ni} \times Award_n$$

where:

TEV_i is the Total Expected Value of awards paid for the i^{th} discard strategy.

N is the winning hand types; this corresponds to the number of possible distinct winning categories.

P_{ni} is the probability of winning the n^{th} Award, given the dealt hand at the i^{th} discard strategy.

$Award_n$ is the Pay for the n^{th} winning combination.

Claim 3. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by paying the player the portion of the monetary value of the player error at the end of each hand.

Claim 4. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by accumulating the monetary value of the player error over a plurality of hands and returning the portion of the monetary

value of the accumulated player error when the accumulated monetary value reaches a predetermined amount..

Claim 5. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by:

- a) accumulating the monetary value of the player error over a plurality of hands;
- b) establishing a range of monetary values;
- c) randomly selecting a monetary value from the range of monetary values; and
- d) returning the portion of the monetary value of the accumulated player error when the accumulated monetary value reaches the randomly selected monetary value.

Claim 6. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by adding the portion of the monetary value of the player error to at least one progressive meter and returning the portion of the monetary value of the accumulated player error when the player achieves a hand combination for which the amount of the progressive meter is awarded to the player.

Claim 7. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by providing the player a free hand of play of the video draw poker game whenever the player error accumulates to a predetermined amount.

Claim 8. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a free hand of play of the video draw poker game.

Claim 9. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by providing the player a predetermined starting hand to be played on the video draw poker game whenever the player error accumulates to a predetermined amount.

Claim 10. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a

predetermined starting hand to be played on the video draw poker game.

Claim 11. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by providing the player a predetermined starting hand to be played on the video draw poker game which is selected by the player from a menu of predetermined starting hands whenever the player error accumulates to a predetermined amount.

Claim 12. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a predetermined starting hand to be played on the video draw poker game which is selected by the player from a menu of predetermined starting hands.

Claim 13. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player by providing the player a starting hand to be played on the video draw poker game using a higher return pay table whenever the player error accumulates to a predetermined amount.

Claim 14. The method of Claim 1 in which the portion of the monetary value of the player error is returned to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a starting hand to be played on the video draw poker game using a higher return pay table.

Claim 15. A method of calculating and using player error occurring during the play of a game of video draw poker in which a plurality of gaming machines are linked together and each player of a gaming machine makes a wager to be eligible to participate in the play of one of the gaming machines comprising:

- a) displaying a starting five card hand to each player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;

f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player;

g) accumulating the monetary value of the player errors from each gaming machine; and

h) returning a portion of the accumulated monetary value of the player error to one of the players.

Claim 16. The method of Claim 15 in which the portion of the accumulated monetary value of the player error is returned to one of the players by randomly selecting one of the players and paying that player the portion of the accumulated monetary value of the player error.

Claim 17. The method of Claim 15 in which the portion of the accumulated monetary value of the player error is returned to one of the players by adding the portion of the monetary value of the player error to at least one progressive meter and returning the portion of the monetary value of the accumulated player error when one of the players achieves a hand combination for which the amount of the progressive meter is awarded to that player.

Claim 18. A method of calculating and using player error occurring during the play of a game of multiple hand video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

- a) displaying a starting five card hand to the player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;
- f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and
- g) returning a portion of the monetary value of the player error to the player.

Claim 19. The method of Claim 18 in which the portion of the monetary value of the player error is returned to the player by providing the player with at least one additional free hand during the next round of play by the player.

Claim 20. The method of Claim 18 in which the portion of the monetary value of the player error is returned to the player by providing the player with at least one additional hand at a reduced wager during the next round of play by the player.

Claim 21. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

- a) displaying a starting five card hand to the player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;
- f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and
- g) returning the monetary value of the player error to the player by providing the player a free hand of play of the video draw poker game whenever the player error accumulates to

a predetermined amount.

Claim 22. A method of calculating and using player error occurring during the play of a game of video draw-poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

- a) displaying a starting five card hand to the player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;
- f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and
- g) returning the monetary value of the player error to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a free hand of play of the video draw poker game.

Claim 23. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

- a) displaying a starting five card hand to the player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;
- f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and
- g) returning the monetary value of the player error to the player by providing the player a predetermined starting hand to be played on the video draw poker game whenever the player error accumulates to a predetermined amount.

Claim 24. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in

the play of the game comprising:

- a) displaying a starting five card hand to the player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;
- f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and
- g) returning the monetary value of the player error to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a predetermined starting hand to be played on the video draw poker game.

Claim 25. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

- a) displaying a starting five card hand to the player;
- b) calculating the highest expected value for the starting hand;
- c) the player holding none, one or more of the cards of the starting hand;
- d) calculating the player's expected value of the starting hand based on the cards held by the player;
- e) determining the player error by subtracting the player's expected value from the highest expected value;
- f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and
- g) returning the monetary value of the player error to the player by providing the player a predetermined starting hand to be played on the video draw poker game which is selected by the player from a menu of predetermined starting hands whenever the player error accumulates to a predetermined amount.

Claim 26. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

- a) displaying a starting five card hand to the player;

b) calculating the highest expected value for the starting hand;

c) the player holding none, one or more of the cards of the starting hand;

d) calculating the player's expected value of the starting hand based on the cards held by the player;

e) determining the player error by subtracting the player's expected value from the highest expected value;

f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and

g) returning the monetary value of the player error to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a predetermined starting hand to be played on the video draw poker game which is selected by the player from a menu of predetermined starting hands.

Claim 27. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

a) displaying a starting five card hand to the player;

b) calculating the highest expected value for the starting hand;

c) the player holding none, one or more of the cards of the starting hand;

d) calculating the player's expected value of the starting hand based on the cards held by the player;

e) determining the player error by subtracting the player's expected value from the highest expected value;

f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and

g) returning the monetary value of the player error to the player by providing the player a starting hand to be played on the video draw poker game using a higher return pay table whenever the player error accumulates to a predetermined amount.

Claim 28. A method of calculating and using player error occurring during the play of a game of video draw poker in which a player makes a wager to be eligible to participate in the play of the game comprising:

a) displaying a starting five card hand to the player;

b) calculating the highest expected value for the starting hand;

c) the player holding none, one or more of the cards of the starting hand;

d) calculating the player's expected value of the starting hand based on the cards held by the player;

e) determining the player error by subtracting the player's expected value from the highest expected value;

f) determining the monetary value of the player error by multiplying the player error by the amount of the wager made by the player; and

g) returning the monetary value of the player error to the player whenever the player error accumulates to a predetermined amount by providing the player the option of receiving the monetary value in cash or credits or of receiving a starting hand to be played on the video draw poker game using a higher return pay table.